

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

SERGIO BONILLA, on behalf of himself and
all others similarly situated,

Plaintiff,

v.

ANCESTRY.COM OPERATIONS INC., a
Virginia Corporation; ANCESTRY.COM INC.,
a Delaware Corporation; ANCESTRY.COM
LLC, a Delaware Limited Liability Company;
and DOES 1 through 50, inclusive,

Defendants.

CASE NO. 1:20-cv-07390

Hon. Virginia M. Kendall

DEFENDANTS' L.R. 56.1(A) STATEMENT OF UNDISPUTED MATERIAL FACTS

Pursuant to Federal Rule of Civil Procedure 56, and Local Rule 56.1(a), defendants Ancestry.com Operations Inc., Ancestry.com Inc., and Ancestry.com LLC (collectively, "Ancestry"), submit the following Statement of Material Facts in support of their motion for summary judgment. Ancestry contends there is no genuine issue to be tried as to the following facts:

1. Ancestry is a genealogy company. It owns and operates the website Ancestry.com, which stores a variety of records, including yearbook records. Declaration of Todd Godfrey ("Godfrey Decl.") ¶ 2.

2. Ancestry.com is a public website through which any user can search for and view information from a variety of records that Ancestry stores in its many databases. One of the databases searchable and accessible through Ancestry.com is Ancestry's "U.S., School Yearbooks, 1900-1999" database ("Yearbook Database"), which hosts certain yearbook records. *Id.* at ¶ 3.

3. When a record is included in Ancestry's database, it becomes "hintable" such that it could be mentioned in a "hint" e-mail to users if it appears the record may correspond to an individual the user included in the family tree the user created on Ancestry.com. *Id.* at ¶ 10.

4. On June 27, 2019, Ancestry began hosting in its Yearbook Database the 1995 Central High School yearbook record on which plaintiff bases his claims (the "Bonilla Record"). *Id.* at ¶ 4. The Bonilla Record has been available on Ancestry's website, in the exact same form, since June 27, 2019. *Id.*

5. Since the time Ancestry began hosting the Bonilla Record (June 27, 2019), (1) any visitor to Ancestry.com (subscribers and non-subscribers alike) has been able to search for the Bonilla Record on Ancestry.com using the same search parameters (*id.* at ¶ 5); (2) Ancestry subscribers and users of Ancestry.com's free trial have been able to view, access, and download the Bonilla Record in full (*id.* at ¶ 6); (3) any visitor to Ancestry.com (subscribers and non-subscribers alike) has been able to pre-view the Bonilla Record via a pop-up screen that, among other things, contains the name "Sergio Bonilla," the words "There's more to see[,] A picture of the original document" and "Sign Up Now," a thumbnail image of the Bonilla Record, and categories of available information for that record (*id.* at ¶ 7, Ex. 2); (4) non-subscriber, non-free-trial users of Ancestry.com who have tried to access the Bonilla Record have been re-directed to an Ancestry webpage, that, among other things, lists prices for Ancestry subscriptions (*id.* at ¶ 8, Ex. 3); and (5) the Bonilla Record has been part of the database from which Ancestry populates the "hint" e-mails. *Id.* at ¶¶ 10-11.

6. Other than these items that a user might see following a search for the Bonilla Record, Ancestry has not otherwise displayed the Bonilla Record to users of its website. *Id.* at ¶ 12.

7. The Bonilla Record has never been the subject of any hint emails sent by Ancestry. *Id.* at ¶ 13.

Dated: February 10, 2022

QUINN EMANUEL URQUHART &
SULLIVAN, LLP

By: /s/ Shon Morgan
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Ancestry.com LLC*

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on February 10, 2022, I caused a true and correct copy of the foregoing to be filed electronically with the Clerk of the Court using the CM/ECF system. Notice of this filing will be sent to counsel of record via the Court's CM/ECF automated filing system.

/s/ Shon Morgan

Shon Morgan